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2 BILL NO. S-77-08- 40

3 SPECIAL ORDINANCE NO. S- 192-77

4 AN ORDINANCE approving a contract  
5 with John Dehner, Inc. for  
6 Water Main Lowering - Old Trail  
Rd./Belle Vista Blvd.

7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY  
8 OF FORT WAYNE, INDIANA:

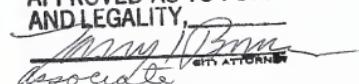
9 SECTION 1. That the contract dated July 29, 1977  
10 between the City of Fort Wayne, by and through its Mayor and  
11 the Board of Public Works, and John Dehner, Inc. for:

12 lowering and/or relaying 480 $\pm$  ft. of  
13 16" water main on Old Trail Road from  
14 a point approximately 380 $\pm$  ft. south  
15 of the south right-of-way line of Belle  
Vista Blvd., northward 480 $\pm$  ft., and the  
construction of 345 $\pm$  ft. of six (6") inch  
water main on Belle Vista Blvd., from the  
Old Trail Road westward,

16 for a total cost of \$22,000.00, all as more particularly  
17 set forth in said contract which is on file in the Office  
18 of the Board of Public Works and is by reference incorporated  
19 herein, made a part hereof and is hereby in all things ratified,  
20 confirmed and approved.

21 SECTION 2. This Ordinance shall be in full force and  
22 effect from and after its passage and approval by the Mayor.

23   
24 Councilman

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33 APPROVED AS TO FORM  
34 AND LEGALITY,  
35   
Associate

Read the first time in full and on motion by D. Schmidt, seconded by

Hunga, and duly adopted, read the second time by title and referred to the Committee on Public Works, (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 8-23-77

Charles W. Westerman  
CITY CLERK

Read the third time in full and on motion by D. Schmidt, seconded by Hunga, and duly adopted, placed on its passage.

PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>				
<u>BURNS</u>	<u>✓</u>				
<u>HINGA</u>	<u>✓</u>				
<u>HUNTER</u>	<u>✓</u>				
<u>MOSES</u>				<u>✓</u>	
<u>NUCKOLS</u>	<u>✓</u>				
<u>SCHMIDT, D.</u>	<u>✓</u>				
<u>SCHMIDT, V.</u>	<u>✓</u>				
<u>STIER</u>	<u>✓</u>				
<u>TALARICO</u>	<u>✓</u>				

DATE: 9-13-77

Charles W. Westerman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE

(RESOLUTION) No. 8-192-77 on the 13<sup>th</sup> day of September, 19<sup>77</sup>  
ATTEST: (SEAL)

Charles W. Westerman  
CITY CLERK

John Guckols  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14<sup>th</sup> day of September, 19<sup>77</sup>, at the hour of 11:30 o'clock A.M., E.S.T.

Charles W. Westerman  
CITY CLERK

Approved and signed by me this 14<sup>th</sup> day of September, 19<sup>77</sup>, at the hour of 3:30 o'clock P.M., E.S.T.

Robert A. Gramling  
MAYOR

S-77-08-40

Bill No. \_\_\_\_\_

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on PUBLIC WORKS to whom was referred an Ordinance  
approving a contract with John Dehner, Inc. for Water Main Lowering -  
Old Trail Rd./Belle Vista Blvd.

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance Do PASS.

WINFIELD C. MOSES, JR. - CHAIRMAN

DONALD J. SCHMIDT

VIVIAN G. SCHMIDT

PAUL M. BURNS

SAMUEL TALARICO

*Winfield Moses Jr.*  
*Donald Schmidt*

*Vivian G. Schmidt*  
*Paul M. Burns*  
*Samuel J. Talarico*

CONCURRED IN  
DATE 9-13-77 CHARLES W. WESTERMAN, CITY CLERK

AGREEMENT

FOR CONSTRUCTION OF OLD TRAIL WATER MAIN LOWERING  
AT BELLE VISTA BLVD.

BOARD ORDER NO. 122-77

CONTRACT NO. 77-1

WORK ORDER NO. 63356

THIS AGREEMENT, made into this 29<sup>th</sup> day of July, 1977, by and between JOHN DEINER, INC., herein called the Contractor and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, herein called Owner,

WITNESSETH, tha the Contractor and the Owner for the considerations hereinafter named, agrees as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary to lower and/or relay 480± ft. of sixteen (16") inch water main on OLD TRAIL ROAD from a point approximately 380± ft. south of the south right-of-way line of Belle Vista Blvd., northward 480± ft., and the construction of 345± ft. of six (6") inch water main on Belle Vista Blvd., from the Old Trail Road westward.

All according to Fort Wayne Water Utility Drawing Y-10516, sheets 1 thru 3, and do everything required by the contract documents and this Agreement.

ARTICLE 2. THE CONTRACT SUM

The Owner shall pay the Contractor for the performance of the contract the unit price sum of \$22,000.00. In event the amount of work is increased or decreased by the Owner, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

ARTICLE 3. PROGRESS PAYMENTS

The Owner shall make payments on account of the contract as provided herein, as follows:

Monthly progress payments will be made by the Utility upon submission of a statement of quantities of work completed and/or materials supplied to the job site as of the end of each month. On or about the 15th day of the following month, ninety percent (90%) of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Engineering Department of the Owner, less the aggregate of previous payments, will be paid by the Utility to the Contractor.

#### ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the Owner to promptly make such inspections. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works who shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted, and the entire balance of the contract sum shall be due and payable to the Contractor.

At the time said payment is due and payable, the Contractor shall furnish the Owner, if requested to do so, satisfactory evidence that all persons who have supplied labor, material or equipment for the work has been fully paid.

#### ARTICLE 5. GUARANTEE OF WORKMANSHIP

At the time the Completion Affidavit is filed, the Contractor shall furnish a one (1) year Guaranty Bond in favor of the City of Fort Wayne and in the amount of twenty-five (25%) percent of the total value of the final invoice.

#### ARTICLE 6. THE CONTRACT DOCUMENTS

The Instructions to Bidders, Specifications, Contractor's Proposal, and this Agreement form the Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated. The following in an enumeration of these documents:

- A. Instructions to Bidders for Contract No. 77-1.
- B. Contractor's Proposal dated July 20, 1977.
- C. Supplemental Specifications for OLD TRAIL WATER MAIN LOWERING AT BELLE VISTA BLVD., and Detailed Specifications and Conditions for the installation of Transmission and Distribution Mains, Contract No. 77-1, and Fort Wayne Water Utility, Engineering Department Drawing No. Y-10516, Sheets 1 thru 3.
- D. Water Main Material Standards of the Fort Wayne Water Utility, Engineering Department, dated March 22, 1976, except as modified in the Supplemental Specifications.

#### ARTICLE 7. ADJUSTMENT OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Utility of the Owner, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 8. INDEMNITY

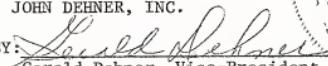
Contractor shall indemnify the Owner against any claim or loss incurred or arising out of the performance of the work as provided herein.

ARTICLE 9. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by its Mayor and Board of Public Works, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall be and become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

JOHN DEHNER, INC.

BY:   
Gerald Dehner, Vice-President

CITY OF FORT WAYNE, INDIANA

BY:

Robert E. Armstrong, its Mayor

BOARD OF PUBLIC WORKS:

ATTEST:

Henry P. Wehrenberg, Chairman

Ursula Miller, Clerk

Ethel H. LaMar, Member

APPROVED AS TO FORM & LEGALITY:

Max G. Scott, Member

Approved by the Common Council of the City of Ft. Wayne on \_\_\_\_\_ day of \_\_\_\_\_ 1977.

Special Ordinance No. \_\_\_\_\_

CITY OF FORT WAYNE, INDIANA  
IMPROVEMENT TO FORT WAYNE WATER UTILITY  
PERFORMANCE AND GUARANTY BOND

KNOW ALL MEN BY THESE PRESENTS, that we JOHN DEHNER, INC.  
(Contractor or Developer) as Principal, and the United States Fidelity & Guaranty  
(Insurance Company), a corporation organized under the laws of the State of  
Indiana July 29, 1977 (State and Date), and duly authorized to transact  
business in the State of Indiana, as Surety, are held firmly bound unto the City  
of Fort Wayne, Indiana, an Indiana Municipal Corporation in the sum of \$22,000.00,  
(value of work) for the payment whereof well and truly to be made, the Principal  
and the Surety bind themselves, their heirs, executors, administrators, successors  
and assigns, jointly and severally, firmly by those present. The condition of  
the foregoing obligation is such that

WHEREAS, the Principal has entered into contractor with the City or has applied for  
authority to to construct or cause to be constructed, a water main to become part  
of the City's water distribution system, which said water main is to be built and  
constructed according to plans and specifications prepared by or approved by City  
and known as the Construction of Old Trail Water Main Lowering at Belle Vista Blvd.  
(Name of Project) and, Contract No. 77-1, Work Order No. 63356

WHEREAS, the grant of authority by City to so construct such water main provides:

1. That said water main shall be completed according to said plans and specifications, and there shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit.
2. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice, and,
3. To agree to maintain said water main for a period of one (1) year following written acceptance by the City of said water main, and,

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no change, modification, omission, or addition in and to the terms or conditions of said contract, plans, specifications, drawings, or profile, or any irregularity or defect in said contract or in the proceedings preliminary to the letting and awarding thereof shall in any way affect or operate to release or discharge said surety and the provisions and conditions of Chapter 258 of the Acts of the General Assembly of Indiana, of 1933, shall be, operate as, and become a part of the terms of this bond and said contract the same as if incorporated herein.

NOW, THEREFORE, if the principal shall perform all of the terms and conditions required of it by the consent to cause said water main to become a part of the City water distribution system, and shall for one (1) year after acceptance of said water main by City maintain said water main and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

JOHN DEHNER, INC.

(Contractor or Developer)

BY:

John Dehner

(Principal) Vice President

Dated this 29th day of July, 1977

United States Fidelity & Guaranty

(Insurance Company)

BY:

Donald B. Williams

Surety Attorney-in-fact

## GENERAL POWER OF ATTORNEY

No. .... 87671

Know all Men by these Presents:

That UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, and having its principal office at the City of Baltimore, in the State of Maryland, does hereby constitute and appoint C. H. Yaste, Arthur C. Frericks, Donald T. Belbutowski, Gerald A. Dahle and Leonard Shirley

of the City of Fort Wayne, State of Indiana  
its true and lawful attorneyS in and for the State of Indiana

for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said UNITED STATES FIDELITY AND GUARANTY COMPANY, through us, its Board of Directors, hereby ratifies and confirms all and whatsoever ~~herein~~ <sup>not</sup> done by anyone of the said C. H. Yaste and the said Arthur C. Frericks and the said Donald T. Belbutowski and the said Gerald A. Dahle and the said Leonard Shirley

may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said UNITED STATES FIDELITY AND GUARANTY COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its Vice-President and Assistant Secretary, this 28th day of March , A. D. 19 77

UNITED STATES FIDELITY AND GUARANTY COMPANY.

(Signed) By..... James A. Mappus

Vice-President.

(SEAL)

(Signed) ..... John C. Vaeth, Jr.

Assistant Secretary.

STATE OF MARYLAND, } ss:  
BALTIMORE CITY,

On this 28th day of March , A. D. 1977, before me personally came James A. Mappus , Vice-President of the UNITED STATES FIDELITY AND GUARANTY COMPANY and John C. Vaeth, Jr. , Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said that they resided in the City of Baltimore, Maryland; that they, the said James A. Mappus and John C. Vaeth, Jr. were respectively the Vice-President and the Assistant Secretary of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their names thereto by order as Vice-President and Assistant Secretary, respectively, of the Company. My commission expires the first day in July, A. D. 19...78..

(SEAL) (Signed) ..... Margaret M. Hurst  
Notary Public.STATE OF MARYLAND } Sct.  
BALTIMORE CITY,

I, Robert H. Bouse , Clerk of the Superior Court of Baltimore City, which Court is a Court of Record, and has a seal, do hereby certify that Margaret M. Hurst , Esquire, before whom the annexed affidavits were made, and who has thereto subscribed his name, was at the time of so doing a Notary Public of the State of Maryland, and for the City of Baltimore, duly commissioned and sworn and authorized by law to administer oaths and take acknowledgments, or proof of deeds to be recorded therein. I further certify that I am acquainted with the handwriting of the said Notary, and verily believe the signature to be his genuine signature.

In Testimony Whereof, I hereto set my hand and affix the seal of the Superior Court of Baltimore City, the same being a Court of Record, this 28th day of March , A. D. 1977

(SEAL) (Signed) ..... Robert H. Bouse  
Clerk of the Superior Court of Baltimore City.

COPY OF RESOLUTION

*That Whereas*, it is necessary for the effectual transaction of business that this Company appoint agents and attorneys with power and authority to act for it and in its name in States other than Maryland, and in the Territories of the United States and in the Provinces of the Dominion of Canada and in the Colony of Newfoundland.

*Therefore, be it Resolved*, that this Company do, and it hereby does, authorize and empower its President or either of its Vice-Presidents in conjunction with its Secretary or one of its Assistant Secretaries, under its corporate seal, to appoint any person or persons as attorney or attorneys-in-fact, or agent or agents of said Company, in its name and as its act, to execute and deliver any and all contracts guaranteeing the fidelity of persons holding positions of public or private trust, guaranteeing the performances of contracts other than insurance policies and executing or guaranteeing bonds and undertakings, required or permitted in all actions or proceedings, or by law allowed, and

*Also*, in its name and as its attorney or attorneys-in-fact, or agent or agents to execute and guarantee the conditions of any and all bonds, recognizances, obligations, stipulations, undertakings or anything in the nature of either of the same, which are or may by law, municipal or otherwise, or by any Statute of the United States or of any State or Territory of the United States or of the Provinces of the Dominion of Canada or of the Colony of Newfoundland, or by the rules, regulations, orders, customs, practice or discretion of any board, body, organization, office or officer, local, municipal or otherwise, be allowed, required or permitted to be executed, made, taken, given, tendered, accepted, filed or recorded for the security or protection of, by or for any person or persons, corporation, body, office, interest, municipality or other association or organization whatsoever, in any and all capacities whatsoever, conditioned for the doing or not doing of anything or any conditions which may be provided for in any such bond, recognizance, obligation, stipulation, or undertaking, or anything in the nature of either of the same.

I, Richard Calder, an Assistant Secretary of the UNITED STATES FIDELITY AND GUARANTY COMPANY, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney given by said Company to C. H. Yaste, Arthur C. Frericks, Donald T. Belbutowski, Gerald A. Dahle and Leonard Shirley

of Fort Wayne, Indiana, authorizing and empowering them to sign bonds as therein set forth, which power of attorney has never been revoked and is still in full force and effect.

And I do further certify that said Power of Attorney was given in pursuance of a resolution adopted at a regular meeting of the Board of Directors of said Company, duly called and held at the office of the Company in the City of Baltimore, on the 11th day of July, 1910, at which meeting a quorum of the Board of Directors was present, and that the foregoing is a true and correct copy of said resolution, and the whole thereof recorded in the minutes of said meeting.

*In Testimony Whereof*, I have hereunto set my hand and the seal of the UNITED STATES FIDELITY AND GUARANTY COMPANY on

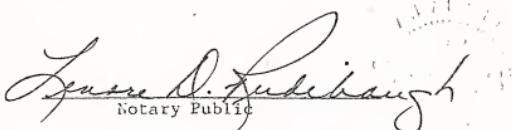
(Date) July 29, 1977

Richard Calder  
Assistant Secretary

STATE OF INDIANA:  
SS:  
COUNTY OF ALLEN:

BEFORE ME, a Notary Public, in and for said State, came  
Gerald Dehner, Vice President of: John Dehner, Inc.  
as principal, and Donald T. Belbutowski  
of the Yaste, Zent & Rye, Inc., Insurance Agency  
Attorney in Fact, for said United States Fidelity & Guaranty  
as surety, with both of  
whom I am personally acquainted, and acknowledged that  
they subscribed their signatures to the above and fore-  
going bond.

SUBSCRIBED TO, before me, a Notary Public, this 29th  
day of July, 1977.

  
Leaure D. Ludebaugh  
Notary Public

My Commission Expires:

June 17, 1981

JOHN DEHNER, INC., CONTRACTOR

TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREEMENT - CONTRACT NO. 77-1 - OLD TRAIL RD./BELLE  
VISTA BLVD. WATER MAIN LOWER-  
DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS INC

*8-77-08-40*

SYNOPSIS OF ORDINANCE AGREEMENT - CONTRACT NO. 77-1 - OLD TRAIL ROAD./BELLE VISTA BLVD.

WATER MAIN LOWERING, JOHN DEHNER, INC., CONTRACTOR, IN THE AMOUNT OF \$22,000.00

(CONTRACT ATTACHED)

EFFECT OF PASSAGE LOWERING OF WATER MAIN PREPARATORY TO RECONSTRUCTION OF THE INTERSECTION

EFFECT OF NON-PASSAGE INABILITY TO PROCEED AS PLANNED

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \$22,000.00 FROM LR & S FUNDS

ASSIGNED TO COMMITTEE

EP

*Pete  
Clark*